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Kroger Company and the Retail Clerks Union, Local 368, AFL-CIO (1978)

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Kroger Company and the Retail Clerks Union, Local 368, AFL-CIO (1978)

Location

Dallas, TX

Effective Date

3-5-1978

Expiration Date

March 1981

Number of Workers

850

Employer

Kroger Co.

Union

Retail Clerks Union

Union Local

368

NAICS

44

Sector

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AGREEMENT

Between

THE KROGER COMPANY

And

RETAIL CLERKS UNION

LOCAL #368, AFL-CIO

RETAIL CLERKS UNION, LOCAL 368
7221 SCYENE ROAD
DALLAS, TEXAS 75227
TELEPHONE: (214) 388-0409



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AGREEMENT

This Agreement has been entered into between the Dallas Marketing Area of The Kroger Co., Dallas, Texas, or its successors, hereinafter designated as the Employer and the Retail Clerks Local Union No. 368, AFL-CIO, chartered by the Retail Clerks International Union, AFL-CIO, hereinafter designated as the Union.

ARTICLE 1. INTENT AND PURPOSE

The Employer and the Union each represents that the purpose and intent of this Agreement is to promote cooperation and harmony, to recognize mutual interests, to provide a channel through which information and problems may be transmitted from one to the other, to formulate rules to govern the relationship between the Union and the Employer, to promote efficiency and service and to set forth herein the basic agreements covering rates of pay, hours of work and conditions of employment.

ARTICLE 2. COVERAGE, CHECK-OFF, AND UNION SECURITY

Section 2.01 The Union shall be the sole and exclusive bargaining agent for all retail store employees in the stores of the Employer in Dallas County, Tarrant County, Sherman and Gainesville, Texas, excluding store managers, assistant or co-managers, grocery managers, meat department managers, all meat department employees, watchmen, guards, and supervisors as defined in the Act.

Section 2.02 The Employer shall deduct Union initiation fees, as authorized and shall deduct Union dues from third pay of each month of employees who are members of the Union and who individually and voluntarily certify in writing authorization for such deductions. The Employer shall promptly remit all sums deducted in this manner to Local Union No. 368. Monthly dues and initiation fees will be deducted on a weekly basis but remitted to the Union once each month or thirteen times per year at the Employer's option.

Once each year the Employer will deduct from its employees, who have certified in writing, a uniform political deduction and forward this money to the President of Local #368.

Section 2.03 If, during the life of this Agreement, or any renewal or extension thereof, the law is changed or amended to make Union Shop Agreements valid, paragraph 2.03a of Article 2 shall immediately become effective upon the earliest date permitted by such enabling legislation as a part of this Agreement or any renewal or extension thereof.

Section 2.03a It shall be a condition of employment that all employees of the Employer covered by this Agreement who are members of the Union in good standing on the Execution date of this Agreement shall remain members in good standing and those who are not members on the execution date of this Agreement shall on the thirty-first (31st) day following the execution date of this Agreement or on the day thereafter become and remain members in good standing in the Union. It shall also be a condition of employment that employees hired on or after its execution date shall, on the thirty-first (31st) day following the beginning of such employment or the day thereafter become and remain members in good standing in the Union.

Section 2.04 To prevent erosion of bargaining unit work, driver salesmen, book salesmen or sales representatives shall not perform work or services in the Employer's retail establishments in excess of the prevailing practice in the industry in the Dallas-Fort Worth

area at the time of this Agreement.

ARTICLE 3. MANAGEMENT RIGHTS

The Management of the business and the direction of the working forces, including the right to plan, direct and control store operations, hire, suspend or discharge for proper cause, transfer or relieve employees from duty because of lack of work or for other legitimate reasons, the right to study or introduce new or improved production methods or facilities, and the right to establish and maintain reasonable rules and regulations covering the operation of the stores, a violation of which shall be among the causes for discharge, are vested in the Employer, provided, however, that this right shall be exercised with due regard for the rights of the employees and provided further that it will not be used for the purpose of discrimination against any employee and provided further that this right is not in conflict with any other provision of this Agreement.

ARTICLE 4. DISPUTE PROCEDURE

Section 4.01 The Union shall have the right to designate store stewards for each store. The store stewards so designated shall not exceed two (2) per store.

Section 4.02 Should any differences, disputes or complaints arise over the interpretation or application of the contents of this Agreement, there shall be an earnest effort on the part of both parties to settle such promptly through the following steps:

- STEP 1.** By conference between the aggrieved employee and/or the Union Representative and/or the store steward and the manager of the store.
- STEP 2.** By conference between the store steward and/or the business agent and the zone manager.
- STEP 3.** By conference between an official of the Union and the Marketing Area Vice-President, a representative of the Employer so delegated by the Marketing Area Vice-President or both.
- STEP 4.** In the event that the last step fails to settle satisfactorily the complaint, it may be referred to the Board of Arbitration.

Section 4.03 The Board of Arbitration shall consist of one (1) person appointed by the Union, and one (1) person appointed by the Employer. Said two (2) persons shall, within two (2) days after disagreement, request the Director of the Federal Mediation and Conciliation Service to furnish a panel of arbitrators from which a third arbitrator may be selected, (or other selection that is mutually agreeable). Failing to agree upon an arbitrator from this panel, said two (2) persons shall request an additional panel or panels of arbitrators until a mutually agreeable third arbitrator is selected. The decision of the majority of the Board shall be binding upon the Employer, the Union and the aggrieved employee. The expense of the third arbitrator shall be paid for jointly.

Section 4.04 The Employer shall not discharge any employee without just cause and shall give at least one written warning notice of the specific complaint or complaints against such employee to the employee, except that no warning notice need be given to any employee before discharge if the cause for such discharge is dishonesty, drunkenness, (under the influence of illegal controlled substance such as marijuana, heroin, etc.), recklessness resulting in a serious accident while on duty, falsification of application for employment, or refusal of the employee to accept a job assignment. A copy of all warning notices shall be sent to the Union. The

Employer shall notify the Union of an employee's discharge within seventy-two (72) hours. The Union, if it wishes to contest the discharge, shall file a written complaint with the Employer within ten (10) calendar days after the discharge, asserting that the discharge was improper. Such complaint must be taken up promptly, and if the Employer and the Union fail to agree within ten (10) calendar days, it may be referred to the Board of Arbitration. Should the Board of Arbitration rule that it was an improper discharge, the Employer shall reinstate the employee in accordance with the findings of the Board.

Section 4.05 No grievance will be discussed unless the outlined procedure has been followed except as otherwise provided in Article 4, Section 4.09.

Section 4.06 Lengthy discussions between employees and representatives of the Union, including the store steward, or among themselves concerning disputes, shall not take place during working hours.

Section 4.07 The manager of a store, or his representative, shall grant to any accredited Union official access to the store for the purpose of satisfying himself that the terms of this Agreement are being complied with.

Section 4.08 Grievances must be presented in writing and no grievance will be considered or discussed which is presented later than ten (10) calendar days after such has happened. Where an employee has no knowledge that he is aggrieved until he receives his pay check for the period in question, such ten (10) calendar days shall date from the day that he received such pay check.

Section 4.09 It is agreed that Steps 1 and 2 of this dispute procedure may be waived if acceptable by both the Employer and the Union.

Section 4.10 The Board of Arbitration is not vested with the power to change, modify or alter this agreement, but only to interpret the provisions of this Agreement.

ARTICLE 5. NO STRIKE, NO LOCKOUT

Section 5.01 During the term hereof, the Union agrees that there shall be no strike, or any other interference with or interruption of the normal conditions of the Employer's business by the Union or its members. The Employer agrees that there shall be no lockout.

Section 5.02 However, no employee shall be required to cross a picket line when his health and safety would be endangered. Forty-eight (48) hours written notice (after picketing commences) shall be given of Local #368 intention to honor a legal labor picket line of another Union.

ARTICLE 6. OTHER AGREEMENTS

The Employer agrees not to enter into any agreement or contract with his employees, individually or collectively, which in any way conflicts with the terms and provisions of this Agreement.

ARTICLE 7. OTHER WORK

Section 7.01 Employees shall perform any work which the manager of the store or zone manager may direct with the understanding that when an employee is assigned to a job with a lesser rate, he will be entitled to his regular rate of pay, unless, due to a decrease of work, he has regularly been assigned to a lower rated job and desires to retain such job rather than accept a layoff. Where a department head is demoted for just cause, he or she shall

be returned to the highest full-time clerk rate.

Section 7.02 Any employee assigned to relieve a produce department head for a period of three (3) days or more in a work week, and who assumes normal duties of the job, shall receive the contract rate in effect in the store involved, for such time spent on relief. Any employee assigned to relieve a head cashier for a period of three (3) days or more in a work week and who assumes normal duties of the job shall receive the minimum contract rate for head cashier for such time spent on relief.

ARTICLE 8. WAGES

Section 8.01 Rates of pay as set forth in Wage Schedule "A" attached hereto, shall remain in effect for the life of this Agreement and shall constitute the basis for determination of wages for time worked.

Section 8.02 When an employee works less than a full week, payment for the time worked shall be computed by multiplying the hourly rate by the actual number of hours worked.

ARTICLE 9. WORKING CONDITIONS

Section 9.01 The hours for each employee shall be scheduled by the Employer. A schedule for full-time employees prepared in ink shall be posted by noon Friday for the succeeding week and such schedule shall not be changed without the consent of the employee, unless such change is necessitated by sickness or emergency. Emergency means strike, fire, flood, etc.

Section 9.02 A schedule for part-time employees shall be posted by noon Friday for the succeeding week. This schedule is subject to change based on the needs of the business.

Section 9.03 If a full-time employee is required to work outside of his regular schedule, he shall not be required to take time off from his schedule that week in order to avoid payment of overtime.

Section 9.04 The work week shall consist of not more than forty (40) hours to be worked in five (5) shifts, not necessarily consecutive. The five (5) day shift week shall not apply to students during the school term.

Section 9.05 All work in excess of forty (40) hours per week shall be paid for at time and one-half (1½).

Section 9.06 All work in excess of eight (8) hours per shift, except one (1) shift in excess of ten (10) hours per shift for employees scheduled for night stocking shall be paid for at time and one-half (1½). Time and one-half (1½) shall be paid on the weekly basis or shift basis, whichever is greater, but in no case on both.

Section 9.07 (a) Time and one-half (1½) the employees straight-time hourly rate shall be paid for hours worked on Sundays.

(b) Two times (2X) the employee's straight-time hourly rate shall be paid for hours worked on any holiday set forth in Article 16, Section 16.01.

(c) There shall be no pyramiding of premium pay and any hours paid for at premium pay will not be counted in computing overtime, except as provided in Section 9.09.

Section 9.08 Work on Sundays and the holidays set forth in Article 16, Section 16.01, shall be on a voluntary basis. However, qualified employees who indicate in writing they are available to work on a continuing basis, shall be rotated for such work by

classification, provided work for their classification is needed. Where additional employees are needed, the junior employee must work in inverse seniority order by store.

Section 9.09 If an employee works on Sunday and five other days, hours worked on the sixth (6th) day will be paid at the time and one-half (1½) rate. Any employee, except a student who works before or after school hours on any of his scheduled school days, who is instructed to report for work shall be guaranteed at least four (4) hours work or four (4) hours straight time pay in lieu thereof.

Section 9.10 No employee shall work a split shift.

Section 9.11 Employees shall be given one (1) hour each shift without pay for lunch between the beginning of the fourth (4th) hour and the beginning of the sixth (6th) hour after starting time. Less than one (1) hour may be taken for lunch where mutually agreeable to the store manager and employee.

Section 9.12 If an employee works four (4) hours or more, but less than seven (7) hours in a shift, he shall receive a fifteen (15) minute rest period. If he works seven (7) hours or more in a shift, he shall receive two (2) fifteen (15) minute rest periods in a shift. If he works ten (10) hours or more in a shift, he shall receive three (3) fifteen (15) minute rest periods in a shift. These rest periods shall be in lieu of and not in addition to previous informal rest periods. No employee will be required to take a rest period within one (1) hour after reporting time or within one (1) hour after lunch time. Employees will be permitted to take their breaks in the store in an area designated by the Employer.

Section 9.13 Employees shall be allowed to keep all tips. Soliciting tips will be cause for discharge.

Section 9.14 The Union store card and/or decal shall be displayed in all stores covered by this Agreement. The store card is and shall remain the property of the Union.

Section 9.15 Any uniforms deemed necessary by the Employer shall be furnished and laundered by the Employer. Where dacron or similar type uniforms are furnished by the Employer, such uniforms shall be laundered by the employee. Utility clerks' uniforms as issued will be laundered by the employee. Any uniform clothing deemed necessary by the Employer will be fully paid for by the Employer. The employees will not be required to buy any type of uniform. Uniforms required will remain property of the Company and will be returned upon termination of the employee.

Section 9.16 The Employer shall make available to the Union a place in each store to post whatever notices may be necessary for the conducting of the Union's business.

Section 9.17 The Employer and the Union agree that a proven violation of time clock rules, including working before punching in or after punching out, may subject such an employee to disciplinary action up to and including discharge.

(a) When an employee fails to record time on his time card, or when the time clock records an error on the employee's time card, the employee shall report such failure or error to the store manager, or his designate, who shall insert the proper time in ink on the time card and initial it, and the employee shall also initial said time card.

Section 9.18 Time spent by employees in travel from store to store during the work shift in order to perform work assigned to them by the Employer shall be paid for as time worked.

Section 9.19 If an employee is transferred from one store to

another, he shall be given twenty-four (24) hours advance notice of such transfer except when the employee is needed immediately in the other store. Employees will be told of transfer as soon as this information is available to the store manager.

Section 9.20 Texas law regarding employees time off for voting shall be followed. Any employee who is scheduled to work eight (8) hours on election day and who is registered to vote shall be allowed time off to vote in all State and Federal elections (without pay).

Section 9.21 Hours spent in meetings called by the Employer at which employee attendance is required shall be considered hours worked and shall be paid accordingly.

Section 9.22 Employees scheduled for night stocking shall be paid a ten cent (10¢) per hour night premium in addition to their straight-time hourly rate of pay for all hours worked between store closing time and 6:00 A.M. unless the employee is working in accordance with the provisions of Article 9, Sections 9.05, 9.06, or 9.07.

A night differential of twenty-five cents (25¢) per hour will be paid for all hours worked by employees covered by this Agreement who are regularly scheduled to work a shift starting between six o'clock (6:00) P.M. and six o'clock (6:00) A.M., or in stores with scheduled night openings, twenty-five cents (25¢) per hour in addition to their regular rate for hours scheduled, and worked, after six o'clock (6:00) P.M. to be paid on the regular time policy basis.

The above premium will be added to the premium now being paid to night stock clerks.

Section 9.23 If agreeable between the employee, the Company and the Union, an employee may be scheduled four (4) ten (10) hour shifts, not necessarily consecutive without incurring daily overtime after eight (8) hours.

Section 9.24 Employees (other than night stocking clerks) who object to working late schedules shall have their schedules rotated with other employees who perform the same primary work assignment, when practical to do so.

Section 9.25 If there becomes an opening on the day shift for a forty (40) hour employee, these hours will be offered by seniority to a night stocker before another person is hired. If the opening on the day shift is a part-time opening, the same would apply to a part-time employee on the night stocking crew.

ARTICLE 10. JURY DUTY

Section 10.01 In case an employee is known to have served on any duly constituted jury, or to have been subpoenaed as a witness, he shall be paid for hours necessarily absent from work. Employees who assume responsibility of citizenship by serving in such capacity will be privileged to retain jury or witness fees in addition to their pay. The employees will notify the Employer upon receipt of jury service notice as soon as possible.

Section 10.02 Any employee required to appear in legal proceedings on behalf of the Employer shall be paid for any time necessary for that purpose, including travel time to the proceedings from the store, and shall be reimbursed for parking fees resulting from parking for such proceeding. Parking receipt must be presented to receive reimbursement.

ARTICLE 11. SEPARATION PAY

A regular employee with more than six (6) months service who is discharged for incompetence or is permanently

separated due to discontinuance of the job, store closing or reduction in force, shall be given one week's notice or one week's pay in lieu of notice. An employee separated during a week for any of these reasons is entitled to pay through the day he was told of his dismissal, plus pay for one additional week which, at the option of the Employer may either be worked out or paid in lieu of notice.

ARTICLE 12. LEAVE OF ABSENCE

Section 12.01 Union Business: The Employer shall grant the necessary time off without discrimination or loss of seniority rights and without pay to any employee designated by the Union to attend a Labor Convention or serve in any capacity on other official Union business. The employee shall upon returning to work receive any wage increase or any wage reduction that may have become effective during such absence, provided the Employer is given at least one (1) week's notice in writing specifying the length of time off. Such leave of absence shall be limited to twelve months.

Section 12.02 Personal Leave of Absence: Leaves of absence up to thirty (30) days shall be granted for reasonable personal reasons but not for the purpose of engaging in gainful employment elsewhere. Any employee desiring a leave of absence from the job shall secure written permission from the Employer with a copy to the Union, the length of absence to be agreed by the Employer and the employee. The length of leave shall be commensurate with the need. Failure to comply with this provision shall result in the complete loss of seniority rights of the employee involved.

Section 12.03 Sickness or Injury: A leave of absence because of sickness or injury not to exceed ninety (90) days shall be granted to a regular employee upon written request supported by medical evidence. Extensions will be granted up to ninety (90) days at a time for a cumulative total of one (1) year, if requested in writing supported by proper medical evidence prior to each expiration.

Section 12.04 Pregnancy: All employees shall be entitled to a pregnancy leave of absence. A pregnancy leave will be granted when supported by a doctor's statement, that the employee is pregnant, giving the anticipated date such leave shall commence, and shall expire subject to the same requirements as specified for sickness or injury leaves of absence.

Section 12.05 Military: Any employee in Military Service under the provisions of Federal Law shall be returned to his job and retain his seniority in accordance with such law. An employee on National Guard or Reserve Duty will not be required to use his vacation for this purpose.

Section 12.06 Time spent on leave of absence will not be counted as time worked for the purpose of wage computation or other benefits and will not result in loss of seniority. Failure to report back to work at the end of a leave of absence shall result in employee being considered a voluntary quit. Any employee accepting employment elsewhere while on leave of absence shall be considered a voluntary quit, except in a case where such employee works for the Union.

ARTICLE 13. DEATH IN FAMILY

In case of a death in the immediate family of any employee, provided he attends the funeral, shall be paid for a reasonable period of absence, depending upon the circumstances, but not to exceed a maximum of three (3) days, and in no case shall he be paid for more than the number of hours in the basic work week. "Immediate family" shall include spouse, parent, child, brother, sister, grandchildren, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandmother, grandfather, or any relative

residing with him.

Pay for part-time employees will be determined by scheduled time missed, or in the case where no schedule is posted, the Employer will pay the difference between hours worked during the week of the funeral and the average hours worked in the four (4) weeks prior to the funeral week, up to a maximum of twenty-four (24) hours.

ARTICLE 14. HEALTH AND WELFARE

Section 14.01 The Employer shall contribute to the Established South Central Division Retail Clerks Union and Employer Health and Welfare Trust Fund the sum of twenty-five and one-half cents (25½¢) per hour, (Effective June 4, 1978) forty-three cents (43¢) per hour, (Effective June 3, 1979), fifty-three cents (53¢) per hour, (Effective June 1, 1980), sixty-three cents (63¢) per hour, for all hours paid (excluding probationary employee's hours) (Effective June 4, 1978, delete probationary exclusion) not to exceed forty (40) hours per week. Such contributions to be used to provide health and welfare benefits as determined by the trustees as provided in South Central Division Retail Clerks Union and Employers Health and Welfare Trust Agreement.

Section 14.02 Contributions to the Trust Fund shall be continued under the following conditions:

- a. In case of illness or non-work accident, six (6) months contribution following the month in which the illness or injury occurs.
- b. In case of pregnancy, one (1) month's contribution after the month in which the employee begins her pregnancy leave of absence.
- c. In case of compensable injury, three (3) months' contribution, following the month in which the injury occurs.
- d. The Employer agrees to pay the contributions to the Trust Fund for eligible employees for one (1) month following termination of employment. This obligation shall not be required when an employee is discharged for just cause or resigns to go into business for himself.

To determine the hourly contribution the Employer will average the straight time hours paid for the last four (4) weeks prior to absence.

ARTICLE 15. PREVIOUS EXPERIENCE

Section 15.01 Previous proven comparable experience within five (5) years from date of present employment shall be the basis for determination of employee's rate of pay.

Section 15.02 Previous experience must be stated at the time of employment and shown on application for employment. Falsification of application shall be reason for discharge.

Section 15.03 Claims for rate adjustment based on previous experience must be filed within forty (40) days from the date of employment, otherwise the employee forfeits any claim under this provision. Rate adjustments based on previous experience will be retroactive to date of employment.

ARTICLE 16. HOLIDAYS

Section 16.01 The following shall be recognized as holidays: New

Year's Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day or days legally celebrated in lieu thereof. Employees who work a full week in which a holiday occurs shall receive eight (8) hours pay in addition to the hours worked, provided that there shall be no deduction from pay of employees who work a full week in which a holiday occurs. Employees who are absent during a holiday week shall not be paid holiday pay unless such absence is due to proven illness or is excused by the Employer in which case the employee shall receive holiday pay, provided he worked any part of the holiday week. Over-time at time and one-half (1½) will be paid in a holiday week after the hours actually worked exceed thirty-two (32) straight-time hours.

Section 16.02 Part-time employees shall be entitled to holiday pay for the holidays set forth in Section 16.01. Employees who are absent during a holiday week shall not be paid holiday pay unless such absence is due to proven illness or is excused by the Employer in which case the employee shall receive holiday pay, provided he worked any part of the holiday week. Holiday pay shall be determined by averaging the hours worked during the previous four (4) weeks to the holiday week in accordance with the following schedule:

Average Hours	Holiday Pay
Under 12	2 hours
12 to 24	4 hours
24 to 32	6 hours
32 and over	8 hours

Section 16.03 An employee with one (1) year or more of continuous service shall receive three (3), (Effective January 1, 1979), four (4), Personal Holidays under the same conditions provided in Section 16.01.

Personal holidays are defined as any days in a year which are chosen by the employee who will notify the Employer two (2) weeks in advance of the holiday choice. The Employer may restrict the number of employees off within any one day on personal holidays, provided that conflicts of the choice of days shall be resolved on a seniority basis.

ARTICLE 17. VACATIONS

Section 17.01 All employees shall be eligible for vacation in accordance with years of continuous service with the Employer and the following schedule:

1 year	—	1 week
3 years	—	2 weeks
8 years	—	3 weeks
Effective 1-1-79, 3 weeks after 7 years		
Effective 1-1-80, 3 weeks after 6 years		
15 years	—	4 weeks
20 years	—	5 weeks

Section 17.02 After qualifying for their first one (1) week vacation, an employee will qualify for future one (1) week vacation as of January 1. After an employee qualifies for additional weeks of vacation as outlined above, they shall become eligible for those additional weeks as of January 1.

Section 17.03 Full-time employees will be paid their straight-time earnings for their basic work week as vacation pay.

Section 17.04 Part-time employees will be paid a vacation week equal to the hours in their anniversary year divided by fifty-two (52) and will earn weeks of vacation as outlined in Section 17.01.

Section 17.05 Vacation pay shall be paid in advance.

Section 17.06 Choice of vacation dates will be granted on the basis of seniority, consistent with the operation of the business.

Section 17.07 Vacations must be scheduled in the calendar year, except where necessary vacations which fall due in the 12th or 13th periods may be carried over to the first period of the next year. No employee shall be given pay in lieu of vacation.

Section 17.08 If an employee qualifies for a one (1) week vacation as of January 1, and is due to complete the service necessary for an additional week of vacation later in the year, he may take the first week early or wait and take both weeks together.

Section 17.09 If an employee who has not taken the vacation which he has earned by reason of his service leaves (regardless of whether he gives notice) goes into military service, or is separated for any reason other than confessed or proven dishonesty, he shall receive his vacation pay at the time of leaving.

Section 17.10 In case a granted holiday falls during an employee's vacation, the employee shall be granted an additional day of paid vacation or eight (8) hours pay at his straight-time rate in lieu thereof. The Employer shall have the option as to the additional day of vacation or eight (8) hours pay.

Section 17.11 Leaves totalling ninety (90) days or less in any calendar year shall not affect vacation earned in that year; leaves totalling more than ninety (90) days but not over one-hundred eighty (180) days shall reduce vacation and vacation pay by one-fourth ($\frac{1}{4}$); leaves totalling more than one-hundred eighty (180) days but not over two-hundred seventy (270) days shall reduce vacation and vacation pay by one-half ($\frac{1}{2}$); leaves totalling more than two-hundred seventy (270) days shall disqualify for vacation.

ARTICLE 18. SENIORITY

Section 18.01 In layoffs and rehiring, the principle of seniority shall apply. Seniority shall be determined on the length of service of the employee, with regard to his experience and ability to perform the work. All circumstances being reasonably equal, length of service shall be the controlling factor.

Section 18.02 In the matter of promotions or transfers from one type of work to the other, or from one store to the other, the Employer shall have the right to exercise his final judgement after giving due regard to seniority.

Employees desiring a transfer from one store to another will submit a request in writing to the Union, the Company personnel office, and Zone Manager. The request will remain on file for a period of six months.

Transfers shall be granted when a job vacancy exists provided the employee is qualified and available to perform the work.

Any employee who desires consideration for promotion shall notify his Zone Manager in writing with a copy to the Personnel Department and the Union. Employees will be considered from those who apply in accordance with seniority. The request will remain on file for a period of six months.

Section 18.03 Seniority shall be considered broken if an employee is duly discharged by the Employer, if he voluntarily quits, if he has been laid off continuously for a period of more than six (6) months, or if he is called back to work after a layoff and does not report for work within one (1) week.

Section 18.04 Employees will be employed on a trial basis for the first thirty (30) days and shall not accumulate seniority for this period. However, if said employee is retained following the

thirty (30) days trial period, his seniority will revert to the last date of hire. Employees discharged during the trial period shall not have recourse through any other provision of this Agreement.

Section 18.05 Seniority for full-time employees shall be a store, zone and Marketing Area (portion of Marketing Area covered by this Agreement) basis as follows:

- Full-time Food Clerks
- Full-time Home Center Clerks
- Full-time Delicatessen-Bakery Clerks
- Full-time Utility Clerks
- Full-time Courtesy Clerks

Section 18.06 Seniority for part-time employees shall be on a store basis as follows:

- Part-time Food Clerks
- Part-time Home Center Clerks
- Part-time Delicatessen-Bakery Clerks
- Part-time Utility Clerk
- Part-time Courtesy Clerks

Section 18.07 A full-time employee is an employee who has worked an average of forty (40) hours for eight (8) consecutive weeks exclusive of weeks where the employee has worked additional hours due to the illness or leave of absence of another employee. Part-time employees shall be those employees who normally work less than forty (40) hours per week.

Section 18.08 Agreed-upon seniority lists shall be established and maintained, and such lists shall be available to the Union at all times.

Section 18.09 If it is necessary to reduce hours of a full-time employee in a classification in a store, the least senior employee in such classification shall have his hours reduced. If such employee has his hours reduced below forty (40) for two (2) consecutive weeks, he may take the job of the least senior employee in his classification in his zone who is working forty (40) hours per week. The same procedure will apply in the Marketing Area (portion of Marketing Area covered by this Agreement). The full-time employee eligible for transfer must request same in writing within fourteen (14) days after being advised of his change in status, or forfeit all rights to the transfer.

Section 18.10 Seniority date shall be the employee's last date of hire in this bargaining unit.

Section 18.11 If a part-time employee transfers from one store to another store in the same zone at the Employer's request, he will take his seniority date to the new store. If he transfers at his request, his seniority date will be the date that he transfers to the new store.

Section 18.12 If a full-time employee transfers to an existing vacancy in a store covered by a separate Agreement with Local Union #368, he will take his seniority date to the new store.

Section 18.13 If an employee accepts a job assignment with the Company outside of the bargaining unit and remains continuously employed, he will retain his seniority date up to one year. If the employee returns to the bargaining unit after one year, or ceases to be continuously employed, he will establish a new seniority date upon his re-entry into the bargaining unit.

Section 18.14 A part-time employee shall have the first choice for a full-time job in his classification in his store based on his seniority, provided he is capable of performing the work, and he may be offered a full-time job in another store, provided that he has notified his store manager in writing with a copy to his Zone

Manager and the Personnel Manager, that he is available for a full-time job in his store or any other store in his Zone.

Section 18.15 (a) The Employer will schedule employees, not to exceed eight (8) hours per day or forty (40) hours per week (32 hours in a holiday week) in accordance with their seniority, availability, ability to perform the work and job classification, in the individual store, provided that this does not conflict with another provision of this Agreement. It is further agreed that if an employee with seniority does not feel that a schedule of hours has been correctly assigned, he must advise the store manager within twenty-four (24) hours after the schedule is posted or he has no claim on such schedule of hours.

(b) Employees by classification and job assignment may exercise a preference and claim a total weekly schedule by seniority. This claim must be made by 12:00 Noon Saturday after posting of the schedule for the succeeding weeks hours of work. Such schedule shall not be arbitrarily or capriciously changed by the Employer.

(c) Part-time employees by classification with the most seniority within a store will be allowed to claim daily and weekly schedules up to eight (8) hours per day or forty (40) hours per week. It is understood the hours must be consecutive and further understood job assignments may be combined on a given day provided the employee is qualified to do the work and is available for the entire shift. (For example an employee is scheduled for thirty-two [32] hours Monday through Thursday, four [4] hours of work is available on Friday that the employee is qualified to perform. That employee may claim those hours.)

The Employer agrees to make every effort to continue to maximize the number of full-time jobs during the term of this Agreement.

Section 18.16 No employee (excluding courtesy clerks) will be scheduled (if available) less than fifteen (15) hours per work week.

Section 18.17 Within each store and by job assignment overtime for work on an extra day shall be offered by seniority. Daily overtime not previously scheduled shall be offered by seniority to the employees, by job assignment, working when the need for overtime arises. Nothing in this provision will require the Employer to work employees on overtime.

ARTICLE 19. UNION MANAGEMENT CO-OPERATION

Section 19.01 The Union agrees to uphold the rules and regulations of the Employer in regard to punctual and steady attendance, proper and sufficient notification in case of necessary absence, conduct on the job, and all other reasonable rules and regulations established by the Employer.

Section 19.02 The Union agrees to cooperate with the Employer in maintaining and improving safe working conditions and practices, in improving the cleanliness and good housekeeping of the store, and in caring for equipment and machinery.

Section 19.03 The Union recognizes the need for improved methods and output in the interest of the employees and the business and agrees to cooperate with the Employer in the installation of such methods, in suggesting improved methods, and in the education of its members in the necessity for such changes and improvements.

Section 19.04 The Union recognizes the need for conservation and the elimination of waste and agrees to cooperate with the Employer in suggesting and practicing methods in the interest of conservation and waste elimination.

Section 19.05 The Union agrees to cooperate in correcting inefficiencies of members which might otherwise necessitate discharge.

Section 19.06 In the interest of promoting co-operative relations, the store manager will introduce each new employee in his store to the Union Store Steward within forty-eight (48) hours after the new employee reports to work. At this meeting, which shall take place during working hours, the store steward shall give the new employee a copy of the contract and shall explain its operation. This store steward may answer any questions the new employee asks him, may request the new employee to join the Union and may make arrangements for the new employee to become a member.

ARTICLE 20. GENERAL

Section 20.01 This Agreement contains all of the covenants, stipulations and provisions agreed upon by the parties hereto.

Section 20.02 No employee shall be discriminated against because of Union affiliation or activities.

ARTICLE 21. SEPARABILITY

Nothing contained in this Agreement is intended to violate any Federal or State Laws, rules or regulations made pursuant thereto. If any part of this Agreement is construed to be in such violation then that part shall be null and void, and the parties agree that they will, within thirty (30) calendar days, begin negotiations to replace said void part with a legal provision.

ARTICLE 22. INJURY ON THE JOB

When an employee is injured on the job and returns to work following such injury and is certified as ready and able to perform all of his regular duties, but requires medical treatment as a result of the same injury, the Employer shall adjust the work schedule without penalty to the employee or to the Employer so that the employee may have the necessary time off for medical care without pay and still work the average number of hours for which he has been scheduled in the preceding four (4) consecutive weeks.

ARTICLE 23. PENSION

Section 23.01 The Employer agrees to make a contribution of eighteen cents (18¢) per hour, twenty cents (20¢) per hour (Effective April 1, 1978), twenty-three cents (23¢) per hour (Effective December 31, 1978), twenty-eight cents (28¢) per hour (Effective December 30, 1979) for each paid hour up to and including forty (40) hours per week for all employees in the bargaining unit, including probationary employees. Paid hours shall include paid hours of vacation, holidays and hours of leave paid for by the Employer. Such contributions shall be made not later than the twentieth (20th) day of the month for the preceding calendar month.

Section 23.02 Contributions shall be made to the Retail Clerks Union's Southern Division and Employer's Pension Fund, which is a jointly administered Employer-Union Trust Fund and is administered by an equal number of trustees representing the Employers and an equal number of trustees representing the Unions. The Pension Trust Fund has been established pursuant to a Pension Trust Agreement and Pension Plan to be hereinafter entered into by the parties hereto for the sole purpose of providing pensions for eligible employees as defined in such Pension Plan.

Section 23.03 Said Pension Plan and Trust Agreement establishing the Pension Trust Fund shall be submitted to the United States Treasury Department for the approval and rulings satisfactory to

the Employer, that said Plan is qualified under I.R.C. Section 401, et. seq., and that no part of such payments shall be included in the regular rate of pay of any employee.

Section 23.04 It is further understood and agreed that all employees covered by this collective bargaining Agreement shall be ineligible to participate in or receive any benefits under the provisions of the Kroger Employee's Retirement Income Plan.

ARTICLE 24. TECHNOLOGICAL CHANGE

Section 24.01 The parties recognize that automated equipment and technology is now available for the retail food industry. The Employer recognizes that there is a desire to protect and preserve work opportunities. At the same time, the Union recognizes that the Employer has the right to avail itself of modern technology. With this common objective the parties agree as follows:

In the event the Employer introduces major technological change which for the purpose of this Article is defined as price marking and electronic scanner which would have a direct material impact affecting bargaining unit work, sixty (60) days advance notice of such change will be given to the Union.

In addition, the parties agree:

- (a) The Employer has the right to install such equipment.
- (b) Any training or necessary retraining will be furnished expense-free by the Employer to affected employees.
- (c) Where employees would be displaced by such installation, the Employer will make every effort to affect a transfer.
- (d) If an employee is not retrained or transferred and would be displaced as a direct result of major technological change, as defined above, then the employee would qualify for separation pay if:
 - a. The employee had two (2) or more years continuous service.
 - b. Does not refuse a transfer within a twenty-five (25) mile radius.
 - c. Does not refuse to be retrained.
 - d. Such action does not occur more than one year from date of installation.
 - e. Does not voluntarily terminate employment.
- (e) Severance pay would be paid at the rate of one (1) week's pay for each year of service in excess of two (2) years not to exceed eight (8) weeks.
- (f) Severance pay would equate the average number of hours worked the fifty-two (52) weeks preceding displacement, not to exceed forty (40) hours straight time pay.

ARTICLE 25. STORE CLOSING

Section 25.01 In the event the Employer closes or sells a store

and employees are terminated as a result thereof, pro rata vacation and severance pay equal to one (1) week's pay for each year of continuous service commencing with the third (3rd) year of continuous service for employees up to, but not to exceed, eight (8) weeks' pay at their regular rate. However, those employees who have an incomplete year of continuous service as an employee will receive pro rata severance pay for that year as follows:

0-3 months equals twenty-five percent (25%) of a week's pay,
3-6 months equals fifty percent (50%) of a week's pay,
6-9 months equals seventy-five percent (75%) of a week's pay,
Over 9 months equals one (1) week's pay.

Section 25.02 Severance pay shall be computed based on the average hours worked per week for the fifty-two (52) weeks preceding a voluntary layoff or termination.

Section 25.03 Employees terminated as a result of store closing shall receive in addition to severance pay pro rata vacation pay.

Section 25.04 The Employer shall continue contributions to the Pension and Health and Welfare Trust Fund for three (3) full months following termination on a hourly basis in direct relationship to the severance pay received for those employees who receive severance pay, except those employees who secure employment with a contributing Employer in the Pension and Health and Welfare Trust Fund.

Section 25.05 All monies due employees including severance pay shall be paid in a lump sum upon termination.

Section 25.06 The Employer agrees to give to the employees and the Union four (4) week's notice in advance of a store closing or sale. When such notice is given, an employee shall remain with the Employer until the store closes or forfeit his rights under this Article unless mutually agreed to by the employee, Employer, and the Union.

Section 25.07 No benefits shall accrue under the terms of this Article unless the Employer makes a business decision to close or sell a store. If a store closing is caused by fire, flood, storm, land condemnation, or remodeling, then this Article shall not apply.

Section 25.08 No benefits shall accrue under the terms of this Article if the employee refuses a transfer within a twenty-five mile radius.

Section 25.09 Any employee who is terminated and who is eligible for, and accepts, severance pay, forfeits all seniority and recall rights. An employee who does not accept severance pay shall retain his recall rights for a period of six (6) months, and if still not recalled by the Employer, shall then receive his severance pay and has no further recall rights.

ARTICLE 26. EXPIRATION

This Agreement shall continue in effect from March 5, 1978, through March 7, 1981, and shall automatically be renewed from year to year thereafter unless either party serves notice in writing to the other party sixty (60) days prior to the expiration date, or prior to any anniversary date thereafter, of a desire for termination of or for changes in this Agreement.

IN WITNESS WHEREOF, the said parties have caused duplicate copies to be executed by their duly authorized officers this third (3rd) day of May, 1978.

FOR THE UNION:

BOBBY D. CRUMBY

FOR THE EMPLOYER:

DONALD SUMMERS

NEWTON W. BRIGGS

J.L. SNEYD

SCHEDULE "A" WAGES

CLASSIFICATION:	EFFECTIVE 3-5-78	EFFECTIVE 3-4-79	EFFECTIVE 3-2-80
Food Clerks			
1st 6 months	\$ 4.395	\$ 4.495	\$ 4.595
2nd 6 months	4.645	4.745	4.845
3rd 6 months	5.045	5.145	5.265
4th 6 months	5.495	5.595	5.725
Thereafter	6.995	7.295	7.545
Head Cashier* (1-2)			
\$ 0 - \$50,000	7.165	7.515	7.765
\$ 50,000 - \$100,000	7.265	7.615	7.865
\$100,000 and over	7.365	7.715	7.965
Head Produce (1)			
\$ 0 - \$4,000	7.495	7.845	8.095
\$4,000 - \$8,000	7.645	7.995	8.245
\$8,000 and over	7.795	8.145	8.395
Courtesy Clerk (3) (4)	3.645	3.745	3.845
Courtesy Clerk (3) (5)	2.80	3.05	3.25
Utility Clerk			
1st 6 months	4.195	4.295	4.395
Thereafter	4.745	4.845	4.945
Delicatessen Dept. Head	7.115	7.465	7.715
Delicatessen Clerks			
Start	4.545	4.645	4.745
After 6 months	4.895	4.995	5.095
Home Center Clerks			
Start	4.545	4.645	4.745
After 6 months	4.895	4.995	5.095

* Present employees to receive .45 3-5-78, .35 3-4-79, and .25 3-2-80.

Part-time clerks shall start at the first six (6) months rate for full-time clerks and will advance up the full-time wage scale on the basis of one bracket for each 1040 hours worked. Hours on such part-time employees are to be accumulated from the last date of hire.

- (1) Where designated by the Employer.
- (2) These rates for Head Cashiers shall apply only if and when an employee demonstrates the ability to supervise the front end of the store.
- (3) The duties of a courtesy clerk shall be sacking, carrying customers' purchases, handling bascarts, performing clean-up work around the check stands and store entrance area, assisting customers in the parking lot and handling empty bottles, or containers returned by customers.

In the event of any violation of this Section, the Union shall notify the Employer in writing, stating the store in which the violation occurred. If the violation is substantiated, the most senior clerk in this classification will be paid for all hours worked on the day the violation took place at the appropriate regular Clerk rate. In the event of a second (2nd) violation of this Section occurring within the same store, the Union shall have the right to terminate

the Courtesy Clerk classification for a period of three (3) months in the store involved.

In the event a third (3rd) violation should occur in a store, then the Union shall have the right to terminate the Courtesy Clerk classification for a period of one (1) year in the store in which the violations have occurred.

Where the Union exercises its right to terminate the Courtesy Clerk classification, then those employees working in the store under the Courtesy Clerk classification shall be promoted to the appropriate Clerk classification, and that rate shall prevail thereafter for such employees.

(4) Courtesy Clerks on Payroll as of ratification of the Agreement. (4-30-78)

(5) Courtesy Clerks hired after ratification of this Agreement.

Employees hired as Training Clerks shall receive the first of the month following ratification \$3.00 per hour; \$3.25 on the second anniversary date of the contract (3-4-79); \$3.50 on the third anniversary date of the contract (3-2-80).

Training Clerks shall work at the above mentioned rates for either eight-hundred seventy hours (870 hours) or nine (9) calendar months, whichever occurs first, and upon the completion of either eight-hundred seventy hours (870 hours) or nine (9) calendar months they shall advance to the first (1st) bracket of their appropriate wage classification.

The Employer will agree that hours of present employees will not be reduced from the average hours worked in the six (6) prior weeks 1-8-78 through 2-18-78 as a direct result of this provision.

(6) In new or remodeled stores, the department head will be paid his present rate for the first fourteen (14) weeks of operation. The new rate for the department head will be determined by applying the average weekly department sales for Produce Department Head and the average weekly total sales for Head Cashier for the last twelve (12) of the first fourteen (14) weeks to the above schedule, and the department head will be paid the new rate retroactive to the opening or remodeling date.

(7) Effective the anniversary dates of the Agreement, Department Heads will be reviewed on the average weekly sales for the thirteen (13) Kroger periods ending just prior to the anniversary dates respectively, and rates will be adjusted accordingly.

(8) Home Center Clerks shall perform work within the Home Center Department only, except they may secure Home Center products from the stock area.

SCHEDULE "B" COST OF LIVING

A cost of living allowance shall be paid on all hours paid on September 24, 1978, September 30, 1979, and September 28, 1980, based on the rise in the Consumer's Price Index (CPI) for urban wage earners and clerical workers, all cities 1967=100 as published by the Bureau of Labor Statistics (BLS). Each .35 point increase in the Index equals 1¢ rounded as follows: One tenth (.1) through four tenths (.4) equals zero; five tenths (.5) equals one-half (½) cents; six tenths (.6) through nine tenths (.9) equals next full cent.

It is understood that the BLS is revising the CPI for Urban Wage Earners and Clerical Workers, 1967=100 effective early 1978. The first COLA payment will be based on the CPI for Urban Wage Earners and Clerical Workers 1967=100 as it exists on the effective date of this contract. The second and third COLA payments will be based on the official CPI for Urban Wage earners and Clerical Workers 1967=100 as revised in early 1978.

The first COLA shall be payable on September 24, 1978, based on the changes in the CPI from December 1977 to June 1978.

The second COLA shall be payable on September 30, 1979, based on the changes in the CPI from June 1978 to June 1979.

The third COLA shall be payable on September 28, 1980, based on the changes in the CPI from June 1979, to June 1980.

The amount of the COLA increases for all progressions during the life of this agreement shall be eighty-five cents (85¢), at least sixteen cents (16¢) effective September 24, 1978; at least an additional thirty-three cents (33¢) effective September 30, 1979; and the balance effective September 28, 1980.

The amount of any allowance, in effect at the time, shall be included in computing any payments under this agreement which are based on the regular hourly rate.

No adjustments, retroactive or otherwise, shall be made due to any revision that may be made in the published figures of the BLS Consumer Price Index after the amount of the cost of living adjustments has been determined and applied to the hourly base rates of pay.

In the event of the CPI shall be revised or discontinued, and in the event the Bureau of Labor Statistics, U.S. Department of Labor does not issue information which will enable the Company and the Union to determine what the CPI would have been had it not been revised or discontinued, the Company and the Union will negotiate and agree upon an appropriate substitute for the CPI.

COLA payments shall become a part of the regular base rates, per schedule "A" wages. This clause shall not apply to Courtesy Clerks and Clerk Trainees.

6178-0156011f002-05

Bureau of Labor Statistics
Collective Bargaining Studies

U.S. Department of Labor



6749
sb

*This report is authorized by law 29 U.S.C. 2.
Your voluntary cooperation is needed to make
the results of this survey comprehensive,
accurate, and timely.*

O.M.B. No. 44-R0003
App. exp. March 31, 1980

July 14, 1978

Secretary-Treasurer
Retail Clerks International Association
7221 Scyene Road
Dallas, Texas 75227

JUL 20 1978 *A*

Gentlemen:

We have in our file of collective bargaining agreements a copy of your agreement(s) with Kroger Company covering Dallas, Tarrant, Sherman and Gainesville, Texas and your unions' local #368. The agreement we have on file expired March 1978.

Would you please send us a copy of your current agreement—with any supplements (e.g., employee-benefit plans) and wage schedules—negotiated to replace or to supplement the expired agreement. If your old agreement has been continued without change or if it is to remain in force until negotiations are concluded, a notation to this effect on this letter will be appreciated.

I should like to remind you that our agreement file is open for your use, except for material submitted with a restriction on public inspection. You may return this form and your agreement in the enclosed envelope which requires no postage.

Sincerely yours,

Julius Shiskin
JULIUS SHISKIN
Commissioner

PLEASE RETURN THIS LETTER WITH
YOUR RESPONSE OR AGREEMENT(S).

If more than one agreement, use back of form for each document. (Please Print)

1. Approximate number of employees involved 850
2. Number and location of establishments covered by agreement 30 stores: 23/Dallas County; 5/Tarrant County; 2/Sherman, Texas and 0/Gainesville.
3. Product, service, or type of business retail groceries
4. If your agreement has been extended, indicate new expiration date _____

Bobby D. Crumby, President
Your Name and Position

214--388-0409
Area Code/Telephone Number

7221 Scyene Road
Address

Dallas, Texas 75227
City/State/ZIP Code